

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION**

IN RE:	)	
	)	
ROBERT JOHN ASZTALOS,	)	CASE NO.: 20-21342
	)	Chapter 7
Debtor.	)	

**CHAPTER 7 TRUSTEE MOTION TO  
SELL REAL ESTATE “FREE AND CLEAR”  
AUTHORITY TO PAY COSTS/EXPENSES OF SALE AND  
MAKE PARTIAL DISTRIBUTION OF SURPLUS FUNDS TO DEBTOR**

Kenneth A. Manning, Chapter 7 Trustee, represents to the Court, and states:

1) This case commenced as a Chapter 13 on July 6, 2020. The case was converted to Chapter 7 on October 5, 2021.

2) Among other things, Debtor listed and scheduled ownership and interest in real estate, located in St. John (Lake County) Indiana.

The parcels of real estate are:

9882 Ponton Place, St. John, Indiana; and  
10195 Olcott St., St. John, Indiana

10195 Olcott, St. John, IN is the residence and homestead of Debtor.

3) After due diligence and review, Trustee has determined the parcels of real estate are subject to a perfected mortgage and secured claim:

9882 Ponton Place, St. John, IN – U.S. Bank, estimated payoff balance \$195,000;  
10195 Olcott, St. John, IN – 1<sup>st</sup> Source Bank, estimated payoff balance \$110,348 (payoff statement dated May 18, 2022)

4) Each, and both, parcel of real estate are delinquent and have substantial arrears. 1<sup>st</sup> Source Bank has obtained a state court decree of foreclosure and is “threatening” a sheriff sale for 10195 Olcott Ave., St. John, IN.

Trustee has recently (July 8, 2022) received a “reinstatement” statement.

A mortgage payoff (dated May 18, 2022) indicates a balance of 1<sup>st</sup> Source Bank mortgage to be \$110,348.

5) Debtor wishes and desire to keep and retain his home and residence at 10195 Olcott, St. John, IN.

6) Trustee additionally is administering the following estate asset:

Round Up Settlement, net proceeds \$73,396.00.

NOTE: Pending Motion to Settle and Compromise (Docket Entry 197) is before the Court. The last day to object is July 21, 2022.

7) The last day to file claims has passed. There are 10 allowable claims in the total amount of \$42,000. There is an additional claim (Claim #7 Harley Davidson) that may increase the total amount of allowable claims.

Trustee has written creditor Harley Davidson to verify and confirm any allowable “deficiency” unsecured claim.

8) The property and real estate, commonly known as 9882 Ponton Place, St. John, Indiana has not been abandoned from this estate.

As such Chapter 7 Trustee is the only party able to sell this real estate parcel.

9) Trustee has now received an agreement – entitled Debtor’s Consent and Waiver to Chapter 7 Trustee’s Sale of Real Estate (9882 Ponton Place, St. John, IN).

10) A copy of the agreement to sell real estate, by the Chapter 7 Trustee, is attached.

11) Trustee has obtained and received a CMA valuation of the properties:

9882 Ponton Place, St. John, IN - \$400,000 (Quick Sale \$385,000);  
10195 Olcott Ave., St. John, IN - \$320,000 (Quick Sale \$308,000)

12) Generally, the terms and provisions of the proposed sale are:

Purchase Price	\$350,000.00
<u>LESS</u> “Gift Equity” down payment to /Buyer	\$ 17,500.00
Seller/Trustee to pay part of Buyer’s closing costs	
And mortgage approval (not to exceed)	\$ 7,500.00
Payoff of U.S. Bank mortgage	\$195,000.00 (estimate)
Seller Closing Costs and Pro-rations	<u>\$ 5,000.00</u>
<b>SUBTOTAL DEDUCTIONS</b>	<b>\$225,000.00</b>

**Net proceeds to Bankruptcy estate \$125,000.00.**

- 13) The legal description of the real estate to be sold is:

Lot 48 in Three Springs Addition, Phase I, to the Town of St. John, as per plat thereof, recorded in Plat Book 95, Page 2, in the Office of the Recorder Of Lake County, Indiana; commonly known as 9882 Ponton Place, St. John, Indiana  
Real Estate Tax Parcel #45-11-33-401-024.000-35

- 14) Trustee is not aware of any other liens, encumbrances and interest in, and upon, the 9882 Ponton Place, St. John, IN real estate. Trustee will pay the U.S. Bank mortgage at closing.

The only other interest in the real estate was Elizabeth A. Asztalos, Debtor's wife/spouse. She predeceased Debtor, prior to the commencement to this case, she died August 25, 2018.

Under Indiana law, the entire interest and ownership of 9882 Ponton Place, St. John, IN "passed" to Debtor by operation of law. As a result the Ponton Place real estate is an asset of this estate.

- 15) After due diligence, and consultation with Debtor attorney and the mortgage broker, Trustee has determined and concluded the sale will result in state and federal income tax (capital gains) in the estimated sum of \$25,700.00 and will be incurred by this estate; and, be required to be paid as an administrative expense.

- 16) Upon approval of the proposed sale, by this Court, Trustee will pay and disburse \$40,000.00 to Debtor. Debtor will use and apply these funds to reinstate the mortgage with 1<sup>st</sup> Source Bank, which is Debtor's home, residence and homestead.

- 17) The Buyer for the sale is Robert T. Asztalos, Debtor's adult son.

- 18) Upon completion, and closing of the sale, Trustee anticipates the sum of \$59,300.00 to be available for the payment of creditor allowed claims.

Trustee will additionally receive \$73,396.00 from the Round Up Settlement.

- 19) It is anticipated all costs and expenses of administration (including income tax liabilities), allowable creditor claims, including post-petition interest, will be paid in full. A substantial "surplus" payment will be paid to Debtor.

20) Pursuant to 11U.S.C.363(b), (f) and (m) Trustee has authority, upon Court approval, and authorization, to sell the real estate “free and clear” of all liens, encumbrances and interests of the Debtor and creditors.

21) In order to prevent, and hold off, the Sheriff sale of Debtor’s home, by 1<sup>st</sup> Source Bank, the closing and completion of this sale is urgent.

For good cause shown, Trustee requests that the order, approving the sale of the real estate, provide that the stay, as provided in B.R.6004(h) not apply.

22) Notice and opportunity to object has been given to Debtor, his counsel, the U.S. Trustee, all creditors and parties in interest, or claiming an interest in the real estate pursuant to B.R. 2002, B.R. 6004, B.R. 9014, and N.D. Ind. L.B.R. B-2002, N.D. Ind. L.B.R.B-6004, and N.D. Ind. L.B.R.B-9014.

WHEREFORE, Kenneth A. Manning, Chapter 7 Trustee prays for an order authorizing and approving of real estate “free and clear” of all claims and interests pursuant to 11U.S.C.363(b), (f) and (m); and for authority to pay, at closing, all costs and expenses of the sale, and the balance of U.S. Bank mortgage and secured claim; and, upon completion of the sale, to pay Debtor the sum of \$40,000.00 to Debtor, to be applied to 1<sup>st</sup> Source Bank lien and mortgage; and for an order pursuant to B.R. 6004(h); and for all other proper relief.

Kenneth A. Manning  
Chapter 7 Trustee

/s/ Kenneth A. Manning, Trustee  
Kenneth A. Manning (9015-45)  
Manning & Mouratides, P.C.  
Attorney for Trustee  
120 West Clark Street  
Crown Point, Indiana 46307  
219-865-8376

**CERTIFICATE OF SERVICE**

I, hereby certify that on July 20, 2022, service of a true and complete copy of the above document was served by:

**Electronic mail service pursuant to Court’s CM/ECF system:**

United States Trustee – [USTPRegion10.SO.ECF@usdoj.gov](mailto:USTPRegion10.SO.ECF@usdoj.gov)

Miguel Martinez - [mmartinez@moseleymartinez.com](mailto:mmartinez@moseleymartinez.com)

Mike Kulak, Attorney for 1<sup>st</sup> Source Bank – [Michael.Kulak@codilis.com](mailto:Michael.Kulak@codilis.com)

Mollie Simons, Attorney for U.S. Bank – [bankruptcy@sottileandbarile.com](mailto:bankruptcy@sottileandbarile.com)

**By U.S. Mail First Class Postage Prepaid:**

Robert John Aszталos, 10195 Olcott Ave, Saint John, IN 46373

/s/ Kenneth A. Manning  
Kenneth A. Manning